

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
March 26, 2014**

The Bismarck Planning & Zoning Commission met on March 26, 2014 at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Mark Armstrong, Tom Atkinson, Mel Bullinger, Mike Donahue, Vernon Laning, Doug Lee, Ken Selzler, Lisa Waldoch, John Warford and Wayne Yeager.

Commissioner Mike Schwartz was absent.

Staff members present were Carl Hokenstad – Community Development Director, Kim Lee – Planning Manager, Jason Tomanek – Planner, Jenny Wollmuth – Planner, Hilary Balzum – Community Development Office Assistant, Jason Hammes – Assistant City Attorney and Charlie Whitman – City Attorney.

**PRESENTATION/PUBLIC HEARING –
GROWTH MANAGEMENT PLAN UPDATE**

Chairman Yeager called for the presentation and public hearing on the proposed 2014 Growth Management Plan Update.

Mr. Hokenstad said the process of updating the 2003 Growth Management Plan started in January of 2013. He said consultants with URS, RDG and SRF were hired and at this time, the updated Growth Management Plan is now ready for consideration.

Jennifer McNeil Dhadwal, URS Corporation, said the Growth Management Plan represents updates due to the continued growth and development in and around Bismarck. She said the framework started with the discussion of principles and it addresses the need for public services and infrastructure. She said the new Plan supports projected growth through the year 2040. She then said the future land use map will be updated to reflect a few minor changes after this meeting. The Technical Committee and Advisory Committee have provided direction and input as well as requests for public input throughout the process. She then explained that the Future Land Use Plan (FLUP) is the cornerstone of the updated Growth Management Plan in regards to how zoning boundaries are determined and how the transitional growth will be controlled. She then said it also includes plans for developing, but still preserving and conserving, unique environmental features. The Plan also includes a phasing plan with three phases and includes prioritizing service needs from the City out to the urban service area boundary and the negotiated extraterritorial area. She said the implementation of this Plan will include periodic reviews of the flexible frameworks provided.

Bill Troe, SRF Consulting, said the strategic infrastructure investment section explains needs such as stormwater, drainage and transportation. He said the main question has been what role the City should play in overall development in the area around the City; should the City continue to respond to development requests or start having a larger role in directing development with infrastructure. He said through discussion with the committees, there has been the belief that funding for adequate water, sewer and storm water utilities is in place, but that funding for transportation infrastructure is not.

Commissioner Laning asked if the acreage set aside for urban reserve has to be used for that purpose.

Ms. Mcneil Dhadwal said the interpretation would not be that the land cannot be used how the owner wants, but rather the proposed uses are suggestions and the Plan approach is meant to be flexible. She said what has been presented are guidelines and changes can be discussed with the Planning staff.

Commissioner Atkinson asked if any thought has been given on a transportation plan of a light rail system between Bismarck and Mandan. Mr. Troe said given the density between the two cities, a light rail system is not a probability at this time.

Commissioner Warford asked which population projections were used when creating the plan. Ms. McNeil Dhadwal said the same numbers were used as those used by the Metropolitan Planning Organization, which identified the oil boom scenario as the likely growth scenario of three different potential growth scenarios.

Arthur Goldammer said that as a builder and developer he wants to thank the Technical and Advisory Committees, as well as the Planning staff and study consultants, for all of their hard work in this process. He said a Plan like this is necessary to control the recent growth in Bismarck and having a progressive municipality is important to him as a builder.

Greg Meidinger said he works for Diversity Homes and they are also in support of the proposed Plan. He said he has been a builder since 2009 and they are a forward thinking group looking to help support the recent growth of the City. He said they all share the common goal of wanting to build Bismarck efficiently.

Mel Webster said he owns 96 acres in Hay Creek Township, parts of which are currently for sale, and he had not received any notice of a new Plan being in the works until very recently. He said he has concerns of one of his parcels having a very large waterway running through it and another large piece of almost 20 acres which is labeled as a conservation area which could not be developed if anybody did purchase it because of the proposed density. He said City services would be needed for urban residential, but it is currently too far away from the City, so it is no longer a desirable piece of land to be purchased and developed. He said he would also like to see the rural residential designation extend to his property line instead of to the existing waterway.

Ms. Lee responded that there is a current policy for formal and administrative Land Use Plan Amendments, and this is expected to continue. She added that a ghost plat could also be allowed as an option to transition the property from Rural Residential to Urban Residential, in addition to the Build Through Acreage (BTA) concept.

Rick Geloff said he wants to know what the City's plan is to incorporate rural areas, as the City grows and that he has concerns of the zoning not being changed until annexation is forced.

Ms. Lee responded that the Growth Management Plan Update does discuss ghost platting and that the consultants have found that very rarely do rural subdivisions ever convert to a higher density. The Plan does show rural subdivisions as continuing on into the future as the City grows; these areas could be further subdivided, but the City would not require or expect it.

Rachel Heir said she would like to know why trees along Highway 83 and Interstate 94 are being cut down. Commissioner Laning said if federal funding was used to improve those roadways, then regulations on maintaining them would be applicable.

There being no further comments, Chairman Yeager closed the public hearing.

Mr. Troe said the new Plan does still reflect the underlying Fringe Area Road Master Plan and once the 2014 Fringe Area Road Master Plan update is in place, then the roads will be intersected and the Plan will be updated.

Ms. Lee said a motion made could include any requested changes, but once the Future Land Use Plan is adopted, the process a change has to go through would depend on how the proposed land uses varies from the Plan.

Commissioner Armstrong said he was on the Advisory Committee and has heard the concerns impacted owners have as far as how this Plan is going to be paid for. He said the funding proposed is of concern and that enhancing the funding with fuel tax and developer taxes will not sit well with the citizens being required to contribute all of it.

Mr. Troe explained that the alternate funding options were considered at the beginning of the study, but that many of those have been dismissed and the options narrowed down to a few alternatives. He said only a portion of the funding will come from the private sector, but more of it will come from state and federal funding systems. He said the entire financial burden would not be from tax increases. He concluded by saying that the Plan only identifies funding alternatives, and that any changes would require separate City Commission action.

MOTION: Commissioner Warford made a motion to recommend approval of the 2014 Growth Management Plan Update, with the requested changes, and forward it to the April 22, 2014 meeting of the Board of City Commissioners. Commissioner Lee seconded the motion and it was approved with Commissioners Atkinson, Bullinger, Donahue, Lee, Waldoch, Warford and

Yeager voting in favor of the motion. Commissioners Armstrong, Laning and Selzler opposed the motion.

MINUTES

Chairman Yeager called for consideration of the minutes of the February 26, 2014 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the January 22, 2014 meeting as received. Commissioner Schwartz seconded the motion and it was unanimously approved with Commissioners Atkinson, Bullinger, Donahue, Laning, Lee, Waldoch, Warford and Yeager voting in favor of the motion.

CONSIDERATION

- A. WILLOW VIEW ESTATES SUBDIVISION –
ZONING CHANGE AND PRELIMINARY PLAT**
- B. LOTS 2-4, BLOCK 4 AND LOT 2, BLOCK 5, HUBER REAL ESTATE TRUST
ADDITION – ZONING CHANGE**
- C. LOTS 1-2 BLOCK 2, PINEHURST 7TH ADDITION REPLAT –
ZONING CHANGE**
- D. OFF-SITE PARKING LOTS –
ZONING ORDINANCE TEXT AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda items:

- A. Willow View Estates Subdivision – Zoning Change and Preliminary Plat
- B. Lots 2-4, Block 4 and Lot 2, Block 5, Huber Real Estate Trust – Zoning Change
- C. Lots 1-2, Block 2, Pinehurst 7th Addition Replat – Zoning Change
- D. Off-site Parking Lots – Zoning Ordinance Text Amendment

MOTION: Commissioner Warford made a motion to approve consent agenda items A, B, C and D, granting tentative approval and/or calling for public hearings on the items as recommended by staff. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – SOUTHBAY 5TH ADDITION

Chairman Yeager called for the public hearing on the final plat; the zoning change from the RR-Residential zoning districts to the R5-Residential, R10-Residential and RR-Residential zoning districts; and final consideration of the annexation of Southbay 5th Addition. The

proposed plat is 77 lots in four blocks on 39.6 acres and is located south of Bismarck, south of Burleigh Avenue, between England Street and South Washington Street (part of the SE¼ and part of the SW¼, Section 20, T138N-R80W/Lincoln Township, including a replat of part of Spiritwood Estates Subdivision).

Ms. Wollmuth provided an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Wollmuth then gave the following findings for the zoning change:

1. The proposed zoning change is consistent with the Land Use Plan, which identifies this area as urban residential (Bismarck-Mandan Regional Future Land Use Plan).
2. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, rural residential to the south and east and agriculturally zoned property with a residence to the west.
3. The proposed subdivision (with the exception of Lot 9, Block 3) would be annexed prior to development; therefore, the zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth then gave the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The stormwater management plan has been approved by the City Engineer.

3. The proposed subdivision generally conforms to the Fringe Area Road Master Plan for this area, which identifies Downing Street and Glenwood Drive as collector roadways.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include single-family residential to the north, rural residential to the south and east, and agriculturally zoned property with a residence to the west.
5. The proposed subdivision (with the exception of Lot 9, Block 3), would be annexed prior to development; therefore, it would not place an undue burden on public services and facilities.
6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said based on these findings, staff recommends approval of the annexation of SouthBay 5th Addition with the exception of Lot 9, Block 3, the zoning change from the RR-Residential zoning districts to the RR-Residential and R5-Residential zoning districts, with the exception of Lot 9, Block 3, Southbay 5th Addition, and from the RR-Residential zoning district to the R10-Residential zoning district on Lots 2-13 & Lots 23-38, Block 4, Southbay 5th Addition and final plat of SouthBay 5th Addition, granting a waiver to allow the use of a cul-de-sac and a private roadway, and with the understanding that any further subdivision of Lot 9, Block 3 (the RR lot) would require annexation of the entire lot.

Chairman Yeager opened the public hearing.

Julie Roswick said she thinks this is going to be a nice development but she has concerns regarding weed control adjacent to their large, A-Agriculture zoned property. She said they have a problem with higher land on the east side of their property being too steep to mow, and if it doesn't get treated, it will be out of control with weeds. She wants to know who will be responsible for that.

Ms. Lee replied once the property is annexed it will fall under the responsibility of the Environmental Health Division with the City of Bismarck, which is under the supervision of Anton Sattler. She said she will notify Mr. Sattler of the concern so he is aware of the situation.

Ms. Roswick then said their fence has been ruined allowing animals to come in and there is dirt from the new development being pushed onto their fence and property. Chairman Yeager said that would be an issue to address between the owners on each side.

Ms. Roswick then said there is also water being pumped onto the property from the proposed development site. Chairman Yeager said that is something to contact the adjacent developer on.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the annexation of SouthBay 5th Addition with the exception of Lot 9, Block 3, the zoning change from the RR-Residential zoning districts to the RR-Residential and R5-Residential zoning districts, with the exception of Lot 9, Block 3, Southbay 5th Addition, and from the RR-Residential zoning district to the R10-Residential zoning district on Lots 2-13 & Lots 23-38, Block 4, Southbay 5th Addition and final plat of SouthBay 5th Addition, granting a waiver to allow the use of a cul-de-sac and a private roadway, and with the understanding that any further subdivision of Lot 9, Block 3 (the RR lot) would require annexation of the entire lot. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

FINAL CONSIDERATION – ANNEXATION PUBLIC HEARING – ZONING CHANGE AND FINAL PLAT – EVERGREEN RIDGE ADDITION

Chairman Yeager called for the public hearing on the zoning change from the RR-Residential zoning district to the R5-Residential and PUD-Planned Unit Development zoning districts and final plat for Evergreen Ridge Addition, as well as final consideration of the annexation of Evergreen Ridge Addition. The proposed plat is 49 lots in two blocks on 8.96 acres and is located in northwest Bismarck, west of North Washington Street between Ash Coulee Drive and Colt Avenue (a replat of Lot 2 and Lots 3A and 3B of Lot 3, Block 1, KMK Estates Subdivision).

Ms. Lee provided an overview of the requests, including the following findings for the annexation:

1. The City and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the annexation.
2. The proposed annexation would not adversely affect property in the vicinity.
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and planning practice.

Ms. Lee then gave the following findings for the zoning change:

1. The proposed zoning change is outside of the area covered by the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include larger lot rural and urban residential to the east, west and south and undeveloped CA-zoned property to the north across Ash Coulee Drive. It is expected that the underlying rural residential lots in KMK Estates will transition to urban density residential over time, and the proposed development will provide a land use transition between the expected future higher intensity land uses to the east along North Washington Street and the lower intensity land uses to the west and south.
3. The subdivision proposed for this property will be annexed and services will be extended in conjunction with development; therefore, it would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee then gave the following findings for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The storm water management plan has been approved by the City Engineer.
3. The proposed subdivision is consistent with the Fringe Area Road Master Plan for this section, which identifies Ash Coulee Drive as an arterial roadway. North Washington Street to the east of the proposed plat is classified as a principal arterial on the MPO's Functional Classification Network (July 2011) and Ash Coulee Drive is classified as a minor arterial.
4. The proposed subdivision would be compatible with adjacent land uses. Adjacent land uses include larger lot rural and urban residential to the east, west and south and undeveloped CA-zoned property to the north across Ash Coulee Drive. It is expected that the underlying rural residential lots in KMK Estates will transition to urban density residential over time, and the proposed development will provide a land use transition between the expected future higher intensity land uses to the east along North Washington Street and the lower intensity land uses to the west and south.
5. The proposed subdivision would be annexed and services would be extended in conjunction with development; therefore, it would not place an undue burden on public services and facilities.

6. The proposed subdivision would not adversely affect property in the vicinity.
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance and subdivision regulations.
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said based on these findings, staff recommends approval of the annexation of Evergreen Ridge Addition (Lots 1-39, Block 1 and Lots 1-10, Block 2), the zoning change from the RR – Residential zoning district to the R5 – Residential on Lot 10, Block 2 and to the PUD – Planned Unit Development zoning district on Lots 1-39, Block 1 and Lots 1-9, Block 2, and the final plat for Evergreen Ridge Addition, including the creation of a temporary emergency access on Ash Coulee Drive subject to the following conditions:

1. The temporary emergency access will be removed by the home owners association when the connection of Huron Drive is completed to the west.
2. The access approach shall be constructed and paved. The size of the approach shall be sufficient to accommodate a fire truck.
3. The access shall be controlled by a steel framed gate and padlocked with the keys in possession of the Bismarck Fire Department.
4. Landscaping shall be provided on both ends of the gate to prevent vehicular traffic from driving around the emergency access gate.
5. A sign shall be displayed on the middle of the gate stating “No Parking, Emergency Vehicle Access Only”
6. The home owners association will be responsible for snow removal and maintenance of the access approach.

Chairman Yeager opened the public hearing.

Jeff Hofstad said his concerns are of the proposed density of the development and he wants to know if it is considered high, medium or low density.

Ms. Lee said the standard R5-Residential zoning district allows up to five units per acre, but the average units implemented is usually three. She said this is a lesser density than apartments and is comparable to units in the Edgewood Village and Sonnet Heights developments, but is still considered low density.

Mr. Hofstad said 40 people signed a letter of support opposing the development and he wants to know how the developer feels this concept will complement the surrounding area. He said there is no other Planned Unit Development zoning anywhere else in the area and it would be

a disservice to the area to add it. He said the intent seems to be to maximize available buildable land at a reasonable price and his concerns are about safety, traffic and access of emergency services.

Paul Bultsma said his two major concerns are of property values and traffic. He said he has a major issue if rental properties are going to be put up since there will be more development surrounding this one. He also believes there are not enough outlets for all of the traffic that the additional housing will bring. He said the proposal only shows Huron Drive being 60 feet wide instead of 66 feet wide, the private road would only be 26 feet wide and he has concerns that the Community Development Director can change the PUD at any time without public notice.

Art Goldammer said the City recommended using twinhomes to transition between higher intensity zoning along Washington Street and the existing neighborhood. He said the RM15-Residential zoning district was originally opposed so he held a neighborhood meeting where only 20 people showed up. He said he was able to get a price reduction on the land purchase when the density was reduced in hopes of trying to please the neighborhood and find a happy medium, while still making a return on his investment.

Dave Patience said the zoning is important and that the area is adjacent to CA-Commercial and RT-Residential zoning districts, so the twinhomes are what would fit in the 500 foot transitional zone. He said if only one and two unit dwellings are desired, then adjustments need to be made to minimize the amount of public streets and private drives necessary to develop that area at all.

Rick Geloff said he did not sign the second letter that went around in opposition to the proposal because he feels comfortable with this new plan. He added that if RedDoor Homes does not develop it, then somebody else will.

Dan Lacher said that when this proposal was originally introduced as the Koosman Addition, the City was not aware that it takes several days for snow to be cleared from Huron Drive and there is nowhere to put it. He also feels a traffic increase of 4% for that area is quite significant.

Written comments received from Dan Lacher and Jeffrey Hofstad are attached as Exhibits A and B.

There being no further comments, Chairman Yeager closed the public hearing.

Ms. Lee said that the recommendation also includes modifying the front lot line width requirement in the PUD.

Commissioners Lee said he is not a fan of PUDs or spot zoning, but the advantage here is that the developer is taking the initiative of starting the transition between the zoning districts. This PUD is more restrictive and he supports it.

Commissioner Waldoch said there is a need for affordable housing in the area and higher end homes would not work in this location because of the adjacent zoning districts.

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve the annexation of Evergreen Ridge Addition (Lots 1-39, Block 1 and Lots 1-10, Block 2), the zoning change from the RR – Residential zoning district to the R5 – Residential on Lot 10, Block 2 and to the PUD – Planned Unit Development zoning district on Lots 1-39, Block 1 and Lots 1-9, Block 2, as outlined in the PUD ordinance and with the lot width change noted by staff; and the final plat for Evergreen Ridge Addition, including the creation of a temporary emergency access on Ash Coulee Drive, with the conditions that 1) The temporary emergency access will be removed by the home owners association when the connection of Huron Drive is completed to the west; 2) The access approach shall be constructed and paved. The size of the approach shall be sufficient to accommodate a fire truck; 3) The access shall be controlled by a steel framed gate and padlocked with the keys in possession of the Bismarck Fire Department; 4) Landscaping shall be provided on both ends of the gate to prevent vehicular traffic from driving around the emergency access gate; 5) A sign shall be displayed on the middle of the gate stating “No Parking, Emergency Vehicle Access Only”; and 6) The home owners association will be responsible for snow removal and maintenance of the access approach. Commissioner Selzler seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE – KILBER NORTH 2ND ADDITION FIRST REPLAT

Chairman Yeager called for the public hearing for a zoning change from the R10-Residential and RM10-Residential zoning districts to the R10-Residential zoning district for Lots 1-16, Block 1, Kilber North 2nd Addition First Replat. The property is located in north Bismarck along the east side of Normandy Street and south of 43rd Avenue NE (a replat of Lots 2-7, Block 2, Kilber North 2nd Addition).

Mr. Tomanek provided an overview of the request, including the following findings:

1. The proposed zoning change is outside of the area covered by the Land Use Plan.
2. The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include developing mixed density residential and office uses to the west, P-Public zoned open space and developing one and two-family residential to the south, mixed density residential and office uses to the east, and developing mixed density residential to the north across 43rd Avenue NE.

3. The area is already annexed; therefore, the proposed zoning change would not place an undue burden on public services and facilities.
4. The proposed zoning change would not adversely affect property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on these findings, staff recommends approval of the zoning change from the R10 – Residential and the RM10 – Residential zoning districts to the R10 – Residential zoning district for Lots 1-16, Block 1, Kilber North 2nd Addition First Replat. Chairman Yeager opened the public hearing.

Remy Messner said he is concerned about the north to south traffic on Normandy Street. He said when the connection to 43rd Avenue Northeast was opened, the traffic got worse and the speed limits are never obeyed.

Mr. Patience said the new minor plat of Kilber North 2nd Addition has actually reduced the density from 4-unit buildings to 2-unit buildings.

Commissioner Warford said he recommends Commissioner Bullinger, the City Engineer, visit with Mark Berg, the Traffic Engineer, as well as the Police Department to make sure the proper speed limit signs are in place and that the speed limits are appropriate for the area as well as having some selective law enforcement being placed in that area.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the zoning change from the R10-Residential and the RM10-Residential zoning districts to the R10-Residential zoning district for Lots 1-16, Block 1, Kilber North 2nd Addition First Replat. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING CHANGE – LOTS 1 & 2, BLOCK 1, HAMILTON’S FIRST ADDITION

Chairman Yeager called for the public hearing for a zoning change from the PUD-Planned Unit Development zoning district to the RM15-Residential zoning district for Lots 1-2, Block 1, Hamilton’s First Addition. The property is located in northeast Bismarck, along the south side of Calgavy Avenue and the east side of Hamilton Street.

Mr. Tomanek indicated that this request had been sent back to the Planning and Zoning Commission by the City Commission. He then provided an overview of the request, including the following findings:

1. The proposed zoning change would not be entirely consistent with the Land Use Plan (Bismarck-Mandan Regional Future Land Use Plan), which was amended to allow industrial land uses prior to the zoning change of the parcel in 2009. However, because this amendment would move the boundary between land use classifications less than 600 feet, it would be considered a minor amendment and would be approved administratively in conjunction with the zoning change, if approved.
2. The proposed zoning change would be generally compatible with adjacent land uses, provided the proposed development includes a transitional land use between the multi-family dwellings and the single-family land use to the east. Adjacent land uses include Legacy High School to the north, multi-family residential to the west, undeveloped limited industrial and service uses to the south and single-family dwellings to the east which is buffered by a 6-foot high, 50-foot wide earthen berm with trees and shrubs installed atop the berm.
3. The property is already annexed; therefore, the proposed zoning change would not place an undue burden on public services.
4. The proposed zoning would not have an adverse impact on property in the vicinity.
5. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
6. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Mr. Tomanek said based on these findings, staff recommends approval of a zoning change from the PUD-Planned Unit Development zoning district to the RM15-Residential zoning district for Lots 1-2, Block 1, Hamilton's First Addition, with the following conditions:

1. The maximum height of any building is 35 feet. Building height is defined as "the average finished ground level adjoining the building if it sets back from the street line to the level of the highest point at the roof beams of flat roofs, or roofs including not more than one inch to the foot, and to the mean height level of the top of the main plate and highest ridge for other roofs".
2. A minor plat is submitted if the property is to be further subdivided.
3. A site plan for the both lots/the entire parcel is submitted to demonstrate how the proposed land residential densities relate internally as well as with adjacent properties.
4. The existing landscape berm shall remain in place until separate Board of City Commissioners action is taken to formally vacate the berm.

Chairman Yeager opened the public hearing.

Mr. Patience said Michael Baumgartner, one of the owners, said these new conditions compared to the ones that were originally proposed, are much more acceptable and will not have any detrimental impact on the developed area.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Warford made a motion to approve the zoning change from the PUD-Planned Unit Development zoning district to the RM15-Residential zoning district for Lots 1-2, Block 1, Hamilton's First Addition, with the conditions that: 1) The maximum height of any building is 35 feet. Building height is defined as "the average finished ground level adjoining the building if it sets back from the street line to the level of the highest point at the roof beams of flat roofs, or roofs including not more than one inch to the foot, and to the mean height level of the top of the main plate and highest ridge for other roofs"; 2) A minor plat is submitted if the property is to be further subdivided; 3) A site plan for the both lots/the entire parcel is submitted to demonstrate how the proposed land residential densities relate internally as well as with adjacent properties; and 4) The existing landscape berm shall remain in place until separate Board of City Commissioners action is taken to formally vacate the berm. Commissioner Lee seconded the motion and the request was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – OFF-STREET PARKING AND LOADING/JOINT USE OF PARKING

Chairman Yeager called for the continued public hearing for a zoning ordinance text amendment relating to Off-Street Parking and Loading/Joint Use of Parking. Ms. Lee explained that the proposed ordinance would allow for multi-tenant shopping centers, having a minimum of 30,000 square feet of leasable area and a minimum of five tenants, to have a lower ratio to calculate required off-street parking spaces. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Laning made a motion to approve the zoning ordinance text amendment relating to Off-street Parking and Loading/Joint Use of Parking as recommended by staff. Commissioner Warford seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson,

Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – APPEAL PROCEDURES

Chairman Yeager called for the continued public hearing for a zoning ordinance text amendment relating to Appeal Procedures. Ms. Lee explained that the proposed ordinance would clarify procedures for an appeal of a decision made by the Bismarck Planning and Zoning Commission or the Board of Adjustment to the Board of City Commissioners. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Warford made a motion to approve the zoning ordinance text amendment relating to Appeal Procedures as recommended by staff. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

Commissioner Waldoch excused herself from the meeting at this time.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – RM DISTRICT/SINGLE FAMILY PROVISIONS

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to RM Districts/Single Family Provisions. Ms. Lee explained that the proposed ordinance would modify the boundary of one area in which single family homes are a permitted use in the RM-Residential District. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Lee made a motion to approve the zoning ordinance text amendment relating to RM District/Single-Family Provisions as recommended by staff. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – RELIGIOUS INSTITUTIONS

Chairman Yeager called for the public hearing for a zoning ordinance text amendment relating to Religious Institutions. Ms. Lee explained that the proposed ordinance would create a definition for a religious institution, replace “churches” with “religious institutions” throughout the ordinance and make such uses permitted uses in the CA-Commercial, CG-Commercial, CR-Commercial and MA-Industrial zoning districts. Staff recommends approval of the amendment as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Commissioner Laning made a motion to approve the zoning ordinance text amendment relating to Religious Institutions as recommended by staff. Commissioner Armstrong seconded the motion and it was unanimously approved with Commissioners Armstrong, Atkinson, Bullinger, Donahue, Laning, Lee, Selzler, Waldoch, Warford and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

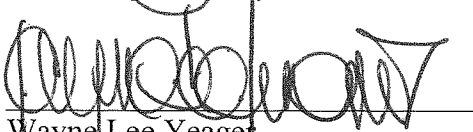
ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 7:47 p.m. to meet again on April 23, 2014.

Respectfully submitted,



Hilary Balzum
Recording Secretary



Wayne Lee Yeager
Chairman

Bismarck City Planning & Zoning Commission
P.O. Box 5503
Bismarck, ND. 58506-5503

RE: Evergreen Ridge Addition

My name is Dan Lacher and I currently live at 530 Huron Drive, Bismarck.

Prior to purchasing my current home I did some research on the neighborhood and liked what I discovered. Everything south of Ash Coulee was zoned rural residential or single family residential. Huron Drive was and is a 2+ block long street with a cul-de-sac on each end. There were and are approximately 25 children 10 and younger living on Huron Drive; while our children are grown and on their own I like watching and hearing young children playing in my neighborhood. When I purchased my home I did assume that at some time Ash Coulee, due to location of Horizon Middle School, would be expanded to handle the increased traffic and become a major East – West artery. I also realized that the plats adjoining Washington could be re-zoned for twin homes, similar to those on south Washington near Augsburg intersection, and as development moves west transition to single family homes comparable to those in our neighborhood. I never did expect the zoning to change for allowing high capacity residential and commercial development or to loop around an existing home with a road connecting to Huron Drive.

Now here we are again revisiting the same issues as when the plat in question was going to be called Koosman Addition. The commission must remember the support our neighborhood showed against this high density development in our neighborhood by prior developer and changing the name and type of “house” the current developer has in mind does not change that fact that he is trying to cram into a small area the most units possible to get the most bang for his buck. I believe he paid the land owners price believing he could get the zoning changed to meet his needs for the highest profit. Might one not want to try to get change in zoning before purchasing?? Arthur Goldhammer of Red Door Homes sent a letter to residents of our neighborhood on 11/12/13 and in this letter acknowledges he “noticed” our objections to this type of development by previous developer. He portrays Red Door as a concerned and conscientious developer and that many in the neighborhood would be open to the idea of twin homes being built on this plat. That may be so but doubt they thought 58 units would fit nicely on this small plat. Also, need clarified if by one twin home unit Red Door means two separate residences in one building? I especially found interesting Mr. Goldhammer’s subtle threat for us to support his plan by stating, “the last thing you want is someone to come in after us and somehow get an RM30 zoning passed where you have to deal with large apartments in your neighborhood”. Approving this proposed development I believe will lower the value of most homes in this area and reduce city income with resulting lower taxes.

This brings up another point regarding plats east of proposed Evergreen Ridge Addition. As I understand things these plats are still zoned RR (rural residential). During previous commission meetings I attended it was mentioned that the city was thinking of changing zoning for the one on the corner of Washington and Ash Coulee to commercial and the one directly south of that to R30. Really! What are the plans for

plats south of Colt Ave.? Mr. Jeff Hofstad a resident living on Colt Ave states quite clearly his and our concerns on developing this area in his letter dated 3/24/14. to the commission. Traffic, Safety, Snow Removal. With no or limited access to Ash Coulee and Washington from this area where do you propose to route traffic? Also, with the addition of new Liberty school and rezoned NW corner of Washington and Ash Coulee to commercial use the problem issues just keep growing. I have often heard that Washington is the longest and straightest street in Bismarck, so what, as an excuse for widening and higher density development. My answer is at what cost? Are we ready to abandon the "identity" of Bismarck and the inner city like so many of our larger cities? Do we intend to "convert" Washington to Bismarck's version of the strip in Mandan. We have to think more than 5-10 years ahead. The city has done a great job in creating major arteries such as Hwy 1804, 57th, Ash Coulee/43rd, Calgary, Century, Rosser/ Main, Bismarck Epwy. Maybe it is a good idea to narrow Washington from Century to Rosser. People will learn that taking one of the many loops around town might be longer but will be quicker and relieve traffic pressure on Washington. Now the city must do its part by not changing the rules to accommodate developers not working within the city plan. I am all for development but am against illogical development.

Sincerely,

Dan Lacher

March 24, 2014

Bismarck City Planning & Zoning Commission
P.O. Box 5503
Bismarck, ND 58506-5503

RE: Evergreen Ridge Addition

Please accept this letter as a way of introducing myself to you. My name is Jeff Hofstad and my wife Joy and I have lived at 405 Colt Ave. in Bismarck for over 21 years and have seen many changes in this area take place and have been a part of those changes as well annexing our property into the City of Bismarck ten years ago.

I am writing this letter to you to express the concerns I have about the Evergreen Ridge Addition in northwest Bismarck. I know you are familiar with this addition and the concerns that many homeowners in this location had when this property was originally presented to you for approval as the Koosman Addition. We had in the original petition we presented to you, 114 signatures representing approximately 92 homes against this development because of the number of units in this location and the impact it would have had on all of us as homeowners with regards to traffic, safety, emergency services, and snow removal to not only current residents of this area but future residents in the new addition being proposed.

Although there is a small reduction in number of units with the proposed Evergreen Ridge Addition, it would still be considered at a minimum a medium density development for this particular location.

Many of the homeowners we visited with had expressed concerns about the traffic that would be generated with the Koosman Addition and how close this development would be to N. Washington St. and the problems created with traffic during peak hours. With Colt Ave. being a secondary snow removal route it even magnifies this problem as even more homeowners use this road as an access route to N. Washington St. during the winter months which would certainly impact traffic and emergency services to this area.

Many of us are aware of the concerns the Fire Marshall had with regards to access points in and out of the proposed Evergreen Ridge Addition. This too has been a question and concern of the homeowners in this area as all of the traffic created from this location has only one road in and out generating a high volume of traffic onto Colt Ave. not only toward N. Washington St., but also west through the residential areas creating issues of safety. There are many families with young children in this area and this is certainly a cause of concern for the taxpayers west of this development.

The question I have with regards to this issue is, if an emergency access point is being considered onto Ash Coulee Dr., why can't a permanent access point be granted in the same location? My answer is in the August 28, 2013 staff report under the additional information item #5:

"The proposed subdivision does not include a roadway connection to Ash Coulee Dr. as such a roadway would be too close to the intersection of Ash Coulee Dr. and N. Washington Ave. and staff indicated they could not support it. A non-access line is included on the plat along the southern edge of Ash coulee Dr. to prohibit any access from this subdivision to Ash Coulee Dr."

If all the traffic from this development uses Colt Ave. as the only way in and out and with Colt Ave. being only 600 feet south of Ash Coulee Dr. could not the same statement be made as in item #5 about Colt Ave., especially since Colt Ave. is expected to take care of all of the traffic issues created with this development? This doesn't even consider the traffic that would be created by plats that are being considered with the property south of Colt Ave. in the same general location.

Medium to high density developments so close to N. Washington St. in this particular location are not appropriate land uses and are certainly a disservice to the taxpayers who use these streets as a regular access point to N. Washington St. for work, school and other services.

I feel that many of the homeowners in this area are aware of the fact that Bismarck is growing and we have to expect development. My concern with the PUD zoning district in this location is that it certainly does not fit in with the intent of a Planned Unit Development in Article 14-04-18 of the Bismarck Zoning Ordinances which states:

"It is the intent of this section to encourage flexibility in the development of land to promote its most appropriate use, to improve the design character and quality of new development, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic features of open space."

There is nothing in this Addition in the location that fulfills the intent of Article 14-04-18, in fact, the only reason that appears to be a reason for a PUD is non-compliance with zoning requirements for an R-5 or an R-10 zoning district in order to fit as many units in this location as possible to recover the costs of this property.

Many homeowners in this location received a letter from Red Door Homes, dated November 12, 2013, indicating that the cost of this property was one of the primary reasons as to why this dense of a development was being considered as an alternative to recover the cost of this property.

And also for the comment to be made that this particular location will not support twin homes that are priced over \$220,000, I believe is not accurate when I am confident that the appraised value of the twin homes close to the corner of N. Washington St. and Calgary Ave. would be considerably higher. What would not support a price higher than \$220,000 would be a development that is not in compliance with the City of Bismarck's Zoning Ordinances for an R-5 or R-10 zoning district, a development that doesn't consider the location of this property and its impact on traffic of the future development of this area, and the appearance of this location after development with undersized lots in a location where homes are sitting on large lots that are attractive and appealing to homeowners.

The price that was paid by developers for this property should NOT become the burden of the adjoining homeowners and taxpayers to the west, south, and east of this location to bear. None of us had anything to do with the negotiations or purchase of the property at the prices that were paid and to expect us as homeowners to bear the costs of these transactions with issues involving traffic, safety, and emergency services with a development that is certainly not appropriate for its location is a disservice to us as taxpayers of the City of Bismarck.

As homeowners we do not expect anything more than careful consideration be given to the development and zoning of this property because of its location to Ash Coulee Dr. and N. Washington St. We ask that you consider the area and zoning from Ash Coulee Dr. all the way down to Century Ave. and would this development really make sense with a PUD zoning district because of its location and what will more than likely become one of the higher traffic areas in Bismarck.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey K. Hofstad".

Jeffrey K. Hofstad